

Unofficial Draft Copy

DATE 4-10-07

As of: April 10, 2007 (8:31am)

BILL No. LC 7140
LC 7140

**** Joint Resolution No. ****

Introduced By *****

By Request of the *****

A Joint Resolution of the Senate and the House of Representatives of the State of Montana requesting a study of the public interest pertaining to regulation of drug testing of employees.

WHEREAS, two bills in the 60th Legislature sought to resolve concerns about on-the-job drug use by employees but encountered concerns about privacy, individual rights, and due process; and

WHEREAS, the U.S. Supreme Court in *Skinner v. Railway Labor Executives' Association* (489 U.S. 609 (1989)) and *National Treasury Employees v. Von Raab*, 489 U.S. 656 (1989) held that government may allow drug tests without particular suspicion when a special need outweighs the individual's privacy interests; and

WHEREAS, Montana in 1997 passed the "Workforce Drug and Alcohol Testing Act" that recognizes a special need for drug and alcohol testing for employees engaged in a hazardous work environment, security positions, public safety positions or fiduciary positions as well as elected officials; and

WHEREAS, the National Institute on Drug Abuse estimates that employed drug users cost their employers about twice as much in medical and workers' compensation claims as their drug-free coworkers; and

WHEREAS, confusion exists in the state about which employees can be randomly tested, what procedures exist, and whether other

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approaches can be used to address public safety concerns without violating a worker's privacy.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to examine implementation of the Workforce Drug and Alcohol Testing Act, including who is being tested for drugs, who ought to be tested, how tests are reported, who is not being hired because of testing, whether certain drugs should be included or excluded, the types of tests commonly used and their efficacy, and how employers address both positive and negative test results.

BE IT FURTHER RESOLVED, that the study review how other states and the federal government address random drug testing and the types of regulation used elsewhere that address advances in drug detection to avoid false positive tests.

BE IT FURTHER RESOLVED, that the study address the right of privacy regarding the use and reporting of drug tests.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2008.

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BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 61st Legislature.

- END -

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